

From: Gregory Slayton
To: Microsoft ATR
Date: 12/29/01 4:56pm
Subject: Microsoft Settlement: Serious Problems with the PFJ

Dear Judge Kollar-Kotally;

I am neither an employee or major shareholder of Microsoft, Sun, AOL, Oracle or any of the other major participants in the long-running Microsoft antitrust battle. But I am a software executive that over the past 10 years has run and sat on the Boards of a variety of small and medium sized companies that have partnered with all of the above.

Over the past 6-12 months many of my fellow CEO's are laboring under the triple whammy of a terrible tech economy, the necessity of overseeing layoffs in their own companies and the virtual shutting down of capital markets. As a result, many of us, including myself, have taken little or no time to study the PFJ. Then of course there are many of us who have been beaten by Microsoft before - and are now afraid to be yet again 'Redmond Roadkill' - and so are willing to accept whatever decision our government comes to.

However, over the holidays I decided to take the time to actually review the PFJ and study its probable implications for our industry. And that is why I am now writing. I am shocked at the fact that our DoJ has apparently decided to give Microsoft not only a free pass on its long-standing monopolistic practices (the Appellate court's finding certainly came as no surprise to anyone here in Silicon Valley) - but also that the basic go-forward agreement is almost completely lacking in any real restraints.

I'm sure I don't have to go into detail for you on the numerous loopholes and almost complete failure of the PFJ to actually ensure anything like a level playing field for current or future Microsoft competitors. Leaving it up to Microsoft to determine which company, if any, is 'viable' - or to allow them to 'bolt' important new software to their OS - are just two examples of the ridiculous nature of much of what the PFJ holds out as 'remedies'. The PFJ truly leaves the proverbial fox to guard the ever shrinking henhouse.

The PFJ is not just a potential disaster for all non-Microsoft supporters - it is a potential death knell for one of our country's most dynamic and powerful job creators and export industries. It is clearly a long-term blow to all software consumers and users. And it is a travesty for all who believe in the free market and the power of competition to drive simultaneous product innovation, job-creation and cost-reduction...the true brilliance of the American economy. Finally, it sends the wrong signal to every company that may be able to establish a defacto monopoly in any field - that illegal activities will not be pursued diligently and penalized.

Judge Kollar-Kotally: please use you power under the Tunney Act to send this back-room deal back to the DoJ for a complete overhaul. Or at least remedy those portions of it (and it appears to me as a layman that there are many) that are completely ineffectual if not downright harmful to our industry and our country.

Out of respect for your greater knowledge in this general area I have endeavored to keep this note short. But please feel free to contact me directly if you have any questions on any of these points...or any others. I am sure that I speak for hundreds - if not thousands - of my fellow independant software executives in voicing my deep concern with the PFJ as it now stands.

Thank you for your time and consideration.

Gregory Slayton
Palo Alto, CA
cell: 650-906-0155

CC: microsoftcomments@doj.ca.gov@inetgw